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15
16 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

17 DANIEL GONZALEZ and JEFFREY HUGHES,
18 on behalf of themselves and others similarly
19 situated,

20 Plaintiffs,

21 v.

22 DIAMOND RESORTS INTERNATIONAL
MARKETING, INC., and WEST MAUI
23 RESORTS PARTNERS, L.P.,

24 Defendants.

25 Case No. 2:18-cv-00979-APG-NJK

26 **PLAINTIFFS' UNOPPOSED
MOTION TO EXCEED THE 30-
PAGE LIMIT FOR PLAINTIFFS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

27 Plaintiffs, on behalf of themselves, Opt-in Plaintiffs and Hawaii Class Members, submit
this Unopposed Motion to Exceed the 30-page limit for Plaintiffs' Motion for Partial Summary

1 Judgment. For the reasons stated below and for good cause shown, the Court should grant
 2 Plaintiffs' Motion.

3 This is a conditionally certified nationwide collective action under the FLSA for unpaid
 4 wages, including overtime, and a certified Rule 23 state law class action for unpaid wages,
 5 including overtime, under the Hawaii Wage and Hour Law.

6 Currently, there are 798 individuals who have filed consents and joined this action as Opt-
 7 in Plaintiffs and 614 Hawaii Class Members in the action, including Plaintiff Gonzalez. *Ex. 1,*
 8 *Declaration of Martin Holmes* ("Holmes Decl."), ¶ 2.

9 On March 29, 2021, Defendants filed a Motion for Summary Judgment, or in the
 10 Alternative, Partial Summary Judgment of the Certain Opt-in Plaintiffs and Hawaii Class Members
 11 Pursuant to FRCP 56. Defendants' Motion was 32 pages in length. *See ECF No. 202.*

12 On April 22, 2021, Defendants' counsel communicated with Plaintiffs' counsel, advising
 13 that Defendants plan to file a second motion for summary judgment, which collectively with the
 14 prior Motion referenced above, would exceed the 30-page limit under LR 7-3(a). Defendants'
 15 counsel inquired whether Plaintiffs would oppose a motion seeking a page extension for
 16 Defendants' second motion. *Ex. 1, Holmes Decl.*, ¶ 3.

17 On April 23, 2021, Plaintiffs' counsel responded, indicating that Plaintiffs would not
 18 oppose Defendants' motion to exceed the 30-page limit, provided that Defendants would
 19 reciprocate and not oppose a similar request by Plaintiffs to exceed the 30-page limit for either a
 20 single motion for summary judgment or two separate motions, which collectively would exceed
 21 the 30-page limit. *Id.*, ¶ 4.

22 Defendants' counsel indicated that Defendants would not oppose a similar request made
 23 by Plaintiffs' counsel to exceed the 30-page limit. *Id.*, ¶ 5.

24 The current deadline to file dispositive motions is Monday, April 26, 2021. *See ECF No.*
 25 *196, p. 2.*

26 Plaintiffs are preparing either a single motion for partial summary judgment or two separate
 27 motions for partial summary judgment on the following issues: 1) whether, as a matter of law, the
 28

1 manner in which Defendants calculated overtime pay prior to April 1, 2018, violated the FLSA
2 and the Hawaii Wage and Hour Law; and 2) whether, as a matter of law, Defendants are not
3 covered by the retail or service establishment exemption contained in 207(i) of the FLSA. *Id.*, ¶ 6.

4 While Plaintiffs are diligently working not to exceed the 30-page limit, at this point, it
5 appears that Plaintiffs' motion(s) will exceed 30 pages. Given the fact that this is a large collective
6 and class action involving over 1,000 individuals and the complexity of the legal issues involved
7 related to both liability and Defendants' affirmative defenses, Plaintiffs respectfully submit that
8 good cause exists to permit Plaintiffs to exceed the 30-page limit. This is especially true in light
9 of the fact that Defendants have already filed a motion for summary judgment which was 32 pages
10 in length and plan to seek leave of the Court to file a second motion. *Id.*, ¶ 7.

11 Based on the foregoing, Plaintiffs respectfully request an order permitting Plaintiffs to file
12 a single motion for summary judgment not to exceed 45 pages or alternatively, two motions for
13 summary judgment which collectively do not exceed 45 pages.

Respectfully submitted,

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ORDER

For good cause shown, it is hereby ORDERED that Plaintiffs' Motion to Exceed the 30-page limit is granted and Plaintiffs may file a single motion for summary judgment not to exceed 45 pages or alternatively, two motions for summary judgment which collectively do not exceed 45 pages.

IT IS SO ORDERED:

ANDREW P. GORDON
United States District Judge

DATED: April 26, 2021
Case No. 2:18-cv-00979-APG-NJK

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on April 23, 2021, I caused a true and accurate copy of the foregoing
3 PLAINTIFFS' UNOPPOSED MOTION TO EXCEED THE 30-PAGE LIMIT FOR
4 PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT to be filed with the Clerk of
5 the Court via the Court's CM/ECF system, which sent an electronic copy of same to the following
6 counsel of record:

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